

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

M.J.J.,

Plaintiff,

v.

Case No. 15-cv-433

POLK COUNTY SHERIFF'S DEPARTMENT,
DARRYL L. CHRISTENSEN,

Defendants.

**INTERVENOR WISCONSIN COUNTY MUTUAL INSURANCE CORPORATION'S
COMPLAINT FOR DECLARATORY JUDGMENT**

NOW COMES the Intervenor, Wisconsin County Mutual Insurance Corporation ("WCMIC"), by its attorneys, Axley Brynerson, LLP, by Lori M. Lubinsky, and hereby alleges and shows to the Court as follows:

1. Intervenor WCMIC is a domestic corporation authorized and licensed to do business in the State of Wisconsin, and its registered agent is David Bisek of Aegis Corporation, 18550 West Capitol Drive, Brookfield, Wisconsin 53042.
2. Defendant Polk County Sheriff's Department is a department of Polk County with its offices located at 1005 West Main Street, Suite 900, Balsam Lake, Wisconsin 54810.
3. Defendant Darryl L. Christensen is a former Polk County employee.
4. WCMIC realleges and incorporates by reference Plaintiff's Complaint as qualified and limited by the Answers and Affirmative Defenses of all Defendants, and as qualified and limited by this Complaint for Declaratory Judgment.
5. WCMIC issued Public Entity Liability policies of insurance, Policy Nos. 14911 (calendar year 2011), 14912 (calendar year 2012), 14913 (calendar year 2013) and 14914

(calendar year 2014) to Polk County covering four consecutive one-year policy periods from January 1, 2011, to January 1, 2015, and said policies are subject to all of its terms, conditions, limitations and exclusions contained therein.

6. Defendants Polk County Sheriff's Department and Darryl L. Christensen tendered defense of the claims asserted in Plaintiff's Complaint to WCMIC, claiming that there is insurance coverage available for the claims made by Plaintiff against Defendants in the above-captioned matter.

7. WCMIC asserts that there is no insurance coverage available to Defendant Darryl L. Christensen under the Public Entity Liability policies of insurance issued by WCMIC to Polk County for the claims asserted in Plaintiff's Complaint against Defendant Darryl L. Christensen.

8. WCMIC has no duty or obligation to defend and/or indemnify Defendant Darryl L. Christensen for the claims asserted by Plaintiff in the Complaint.

9. The dispute between WCMIC and Defendant Darryl L. Christensen creates an actual and justiciable controversy as to whether the Public Entity Liability policies of insurance issued by WCMIC to Polk County provides insurance coverage to Defendant Darryl L. Christensen for the allegations contained in Plaintiff's Complaint against Defendant Darryl L. Christensen.

10. As a result of the justiciable controversy concerning whether there is insurance coverage provided by WCMIC to Defendant Darryl L. Christensen for the claims asserted by Plaintiff in the Complaint against Defendant Darryl L. Christensen, WCMIC is entitled to a declaratory judgment pursuant to Fed. R. Civ. P. 24, declaring the rights of the parties under the Public Entity Liability policies of insurance issued by WCMIC to Polk County.

WHEREFORE, WCMIC requests the Court enter a declaratory judgment finding and declaring:

1. That there is no insurance coverage available to Defendant Darryl L. Christensen under the Public Entity Liability policies of insurance issued by WCMIC to Polk County for the actions of Defendant Darryl L. Christensen as asserted by Plaintiff in the Complaint;

2. WCMIC has no duty or obligation to defend or indemnify Defendant Darryl L. Christensen for any of the claims asserted by Plaintiff against Defendant Darryl L. Christensen Plaintiff's Complaint;

3. That this Court grant WCMIC such other and further relief as the Court deems just and equitable under the circumstances; and

4. That WCMIC be awarded and recover its just and reasonable costs and disbursements incurred herein.

Dated this 19th day of October, 2015.

s/ Lori M. Lubinsky
Attorneys for Intervenor
Wisconsin County Mutual Ins. Corporation
AXLEY BRYNELSON, LLP
P.O. Box 1767
Madison, WI 53701-1767
Telephone: (608) 257-5661
Fax: (608) 257-5444
Email: llubinsky@axley.com